

ORIGINAL

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Attorney(s) for the Linda Daube

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Karl Finley,  
  
Plaintiff,  
  
v.  
  
County of Marin; Marsha Grant; Diane Stoker; and  
DOES 1 through 50,  
  
Defendants.

Case No.: USDC 07 5922 TEH

NON-PARTY WITNESS LINDA DAUBE'S  
OBJECTIONS TO INSPECTING AND  
COPYING ANY OR ALL DOCUMENTS OR  
MATERIALS

SUBPOENAING PARTY: Karl Finely

RESPONDING PARTY: Linda Daube

Ms. Daube hereby requests Plaintiff to pay for all fees and costs of complying with the subpoena.  
FRCP 45(c)(2)(B)(ii).

Objection. The subpoena does not provide a reasonable amount of time to respond. FRCP 45 states that the time between service of a subpoena and the date set for compliance must be "reasonable." The time allowed by this subpoena is simply not reasonable. Linda Daube is a busy attorney with significant time commitments. She cannot be expected to drop everything she is doing in order to comply with an overly broad subpoena for documents that plaintiff has no proper basis to obtain. When a party to an action that receives a deposition notice that includes the production of documents, FRCP 34 applies. Under FRCP 34, a minimum of notice of 30 days is required. That same time period should be

1 considered the minimum amount of notice for a non-party as well. Such notice was not provided to Ms.  
2 Daube.

3 FIRST UNNUMBERED REQUEST

4 Any and all documents, including electronically stored information (collectively "documents")  
5 that reference or relate to plaintiff Karl Finley.

6 RESPONSE TO FIRST UNNUMBERED REQUEST

7 Objection. The request seeks documents that are not relevant to the claim of any party. Such a  
8 broad request is improper. It is not enough that the documents sought be relevant to the subject matter  
9 of the case, without a court order. The subpoena can only seek documents relevant to a particular claim  
10 of plaintiff. There is no plausible portion of the complaint that would amount to a claim that would  
11 allow for such discovery.

12 Further objection is made because this subpoena subjects the witness to undue burden. FRCP  
13 45(c)(3)(A)(iv). The burden of this proposed discovery outweighs its likely benefits. The needs of this  
14 case simply do not require every single scrap of paper or note on a computer that may relate in some  
15 way to Karl Finley. The resources of the witness, a sole practicing private attorney, do not allow for  
16 response to such an overwhelmingly broad document request. It is impossible to determine what the  
17 importance of every single document that may relate in some way to Finley that would outweigh the  
18 burden and time consuming attempt to respond to such a demand. This subpoena is abusively drawn  
19 because it imposes an undue burden that is way too broad, and does not relate to a particular claim of  
20 Plaintiff. It is drafted without any attempt made to try to tailor the information request to the immediate  
21 needs of the case.

22 Further objection is made pursuant to FRCP 45(c)(3)(A)(iii). The information sought includes  
23 privileged information. Linda Daube is an attorney, and some of the functions she performs for the  
24 County of Marin are attorney services. Those documents are protected by the attorney client privilege  
25 and work product doctrine. Additionally, the overly broad description may also include confidential  
26 information of other County of Marin employees, protected by the right to privacy.

27 Further objection is made because Plaintiff is seeking documents that would reveal an unretained  
28 expert's opinion. Ms. Daube was an attorney hired by the County of Marin to provide her expert

1 opinion and investigation of a harassment complaint. Ms. Daube was compensated for that service.  
2 Plaintiff now seeks the same information and opinions Ms Daube was hired to provide for the County of  
3 Marin, yet does not intend to pay for the expert opinions. FRCP(c)(3)(B)(ii).

4 SECOND UNNUMBERED REQUEST

5 Any and all documents constituting, regarding, referencing, or relating to any workplace  
6 investigations, including any witness interviews, notices, communications, drafts of documents,  
7 preliminary findings or conclusions, scope(s) of assignment, interim reporting, meeting minutes, final  
8 reports, exhibits, evidence reviewed, or any other writings relating to the investigation (collectively  
9 "workplace investigations"), into plaintiff Karl Finley's complaints of discrimination, retaliation,  
10 unequal treatment, or harassment at the County of Marin including any of its political subdivisions,  
11 departments, human resources, board of supervisors, affirmative action office, agencies, employees,  
12 appointees, affiliates, or representatives (collectively "County of Marin").

13 RESPONSE TO SECOND UNNUMBERED REQUEST

14 Objection. The request seeks documents that are not relevant to the claim of any party. Such a  
15 broad request is improper. It is not enough that the documents sought be relevant to the subject matter  
16 of the case, without a court order. The subpoena can only seek documents relevant to a particular claim  
17 of plaintiff. There is no plausible portion of the complaint that would amount to a claim that would  
18 allow for such discovery. This category of documents does not merely seek the investigation itself, it is  
19 seeking any document relating to the investigation in any manner. It is completely overbroad and not  
20 drawn to apply to a particular claim of plaintiff.

21 Further objection is made because this subpoena subjects the witness to undue burden. FRCP  
22 45(c)(3)(A)(iv). The burden of this proposed discovery outweighs its likely benefits. The resources of  
23 the witness, a sole practicing private attorney, do not allow for response to such an overwhelmingly  
24 broad document request. It is impossible to determine what the importance of every single document  
25 that may relate in some way to Finley that would outweigh the burden and time consuming attempt to  
26 respond to such a demand. This subpoena is abusively drawn because it imposes an undue burden that  
27 is way too broad, and does not relate to a particular claim of Plaintiff. It is drafted without any attempt  
28 made to try to tailor the information request to the immediate needs of the case.

1 Further objection is made pursuant to FRCP 45(c)(3)(A)(iii). The information sought includes  
2 privileged information. Linda Daube is an attorney, and some of the functions she performs for the  
3 County of Marin are attorney services. Those documents are protected by the attorney client privilege  
4 and work product doctrine. Additionally, the overly broad description may also include confidential  
5 information of other County of Marin employees, protected by the right to privacy.

6 Further objection is made because Plaintiff is seeking documents that would reveal an unretained  
7 expert's opinion. Ms. Daube was an attorney hired by the County of Marin to provide her expert  
8 opinion and investigation of a harassment complaint. Ms. Daube was compensated for that service.  
9 Plaintiff now seeks the same information and opinions Ms Daube was hired to provide for the County of  
10 Marin, yet does not intend to pay for the expert opinions. FRCP(c)(3)(B)(ii).

11 THIRD UNNUMBERED REQUEST

12 Any and all documents constituting, regarding, referencing, or relating to any workplace  
13 investigations into complaints of discrimination, retaliation, unequal treatment, or harassment at the  
14 County of Marin , from 1998 to the present.

15 RESPONSE TO THIRD UNNUMBERED REQUEST

16 Objection. The request seeks documents that are not relevant to the claim of any party. Such a  
17 broad request is improper. It is not enough that the documents sought be relevant to the subject matter  
18 of the case, without a court order. The subpoena can only seek documents relevant to a particular claim  
19 of plaintiff. There is no plausible portion of the complaint that would amount to a claim that would  
20 allow for such discovery. In fact, by the very nature of the description, it specifically seeks documents  
21 that are outside the scope of plaintiff's claims, and instead seeks documents that are related to other  
22 people besides Finley.

23 Further objection is made because this subpoena subjects the witness to undue burden. FRCP  
24 45(c)(3)(A)(iv). The burden of this proposed discovery outweighs its likely benefits. Ms. Daube should  
25 not be required to look through every document that may possibly relate to work she did for the County  
26 of Marin for cases other than the plaintiff, merely because plaintiff is on a fishing expedition for any  
27 scrap of information that may relate to occurrences outside of the knowledge of the plaintiff. The  
28 resources of the witness, a sole practicing private attorney, do not allow for response to such an

1 overwhelmingly broad document request. There can be no importance to the documents, which by the  
2 terms of the inspection description do not relate to Finley, that would outweigh the burden and time  
3 consuming attempt to respond to such a demand. This subpoena is abusively drawn because it imposes  
4 an undue burden that is way too broad, and does not relate to a particular claim of Plaintiff. It is drafted  
5 without any attempt made to try to tailor the information request to the immediate needs of the case.

6 Further objection is made because this description seeks documents for harassment purposes.  
7 There is no legal basis or good faith reason to expect that an attorney for the County of Marin and expert  
8 hired by the County of Marin would provide documents not related to the claims of the plaintiff by the  
9 very terms of the description.

10 Further objection is made pursuant to FRCP 45(c)(3)(A)(iii). The information sought includes  
11 privileged information. Linda Daube is an attorney, and some of the functions she performs for the  
12 County of Marin are attorney services. Those documents are protected by the attorney client privilege  
13 and work product doctrine. Additionally, the overly broad description includes multiple amount  
14 confidential information of other County of Marin employees, protected by the right to privacy.

15 Further objection is made because Plaintiff is seeking documents that would reveal an unretained  
16 expert's opinion. Ms. Daube was an attorney hired by the County of Marin to provide her expert  
17 opinion and investigation of a harassment complaint. Ms. Daube was compensated for that service.  
18 Plaintiff now seeks the same information and opinions Ms Daube was hired to provide for the County of  
19 Marin, yet does not intend to pay for the expert opinions. FRCP(c)(3)(B)(ii).

20 FOURTH UNNUMBERED REQUEST

21 Any and all documents showing the income or payments you, including any business form  
22 associated with you (collectively "you") received from the County of Marin from 1998 to the present.

23 RESPONSE TO FOURTH UNNUMBERED REQUEST

24 Objection. The request seeks documents that are not relevant to the claim of any party. Such a  
25 broad request is improper. It is not enough that the documents sought be relevant to the subject matter  
26 of the case, without a court order. The subpoena can only seek documents relevant to a particular claim  
27 of plaintiff. There is no plausible portion of the complaint that would amount to a claim that would  
28 allow for such discovery. In fact, by the very nature of the description, it specifically seeks documents

1 that are outside the scope of plaintiff's claims, and instead seeks documents that are related to other  
2 people besides Finley.

3 Further objection is made because this subpoena subjects the witness to undue burden. FRCP  
4 45(c)(3)(A)(iv). The burden of this proposed discovery outweighs its likely benefits. Ms. Daube should  
5 not be required to disclose personal financial information, merely because plaintiff is on a fishing  
6 expedition for any scrap of information that may relate to occurrences outside of the experience of the  
7 plaintiff. There can be no importance to the documents, which by the terms of the inspection does not  
8 relate to Finley, and would outweigh the burden and time consuming attempt to respond to such a  
9 demand. This subpoena is abusively drawn because it imposes an undue burden that is way too broad,  
10 and does not relate to a particular claim of Plaintiff. It is drafted without any attempt made to try to  
11 tailor the information request to the immediate needs of the case.

12 Further objection is made because this description seeks documents for harassment purposes.  
13 There is no legal basis or good faith reason to expect that an attorney for the County of Marin and expert  
14 hired by the County of Marin would provide documents not related to the claims of the plaintiff by the  
15 very terms of the description.

16 Further objection is made pursuant to FRCP 45(c)(3)(A)(iii). The information sought includes  
17 privileged information. Linda Daube is an attorney, and some of the functions she performs for the  
18 County of Marin are attorney services. The documents relating to invoices would reveal what issues  
19 Ms. Daube was working on, and those documents are protected by the attorney client privilege and work  
20 product doctrine. Additionally, the overly broad description includes multiple amount confidential  
21 financial information of Ms. Daube, protected by the right to privacy.

22 Further objection is made because Plaintiff is seeking documents that would reveal an unretained  
23 expert's opinion. Ms. Daube was an attorney hired by the County of Marin to provide her expert  
24 opinion and investigation of a harassment complaint. Ms. Daube was compensated for that service.  
25 Plaintiff now seeks the same information and opinions Ms Daube was hired to provide for the County of  
26 Marin, yet does not intend to pay for the expert opinions. FRCP(c)(3)(B)(ii).

27 FIFTH UNNUMBERED REQUEST  
28



Any and all documents constituting, regarding, referencing, or relating to any invoices, timesheets, estimates, charges, or collection of payments for work performed on behalf of the County of Marin, including the workplace investigation regarding plaintiff Karl Finley, from 1998 to the present.

RESPONSE TO FIFTH UNNUMBERED REQUEST

Objection. The request seeks documents that are not relevant to the claim of any party. Such a broad request is improper. It is not enough that the documents sought be relevant to the subject matter of the case, without a court order. The subpoena can only seek documents relevant to a particular claim of plaintiff. There is no plausible portion of the complaint that would amount to a claim that would allow for such discovery.

Further objection is made pursuant to FRCP 45(c)(3)(A)(iii). The information sought includes privileged information. Linda Daube is an attorney, and some of the functions she performs for the County of Marin are attorney services. The documents relating to invoices would reveal what issues Ms. Daube was working on, and those documents are protected by the attorney client privilege and work product doctrine. Additionally, the overly broad description includes multiple amount confidential financial information of Ms. Daube, protected by the right to privacy.

Further objection is made because Plaintiff is seeking documents that would reveal an unretained expert's opinion. Ms. Daube was an attorney hired by the County of Marin to provide her expert opinion and investigation of a harassment complaint. Ms. Daube was compensated for that service. Plaintiff now seeks the same information and opinions Ms Daube was hired to provide for the County of Marin, yet does not intend to pay for the expert opinions. FRCP(c)(3)(B)(ii).

SIXTH UNNUMBERED REQUEST

Any and all documents constituting, regarding, referencing, or relating to the County of Marin Affirmative Action reports, plans, findings, or data, including any statistical information.

RESPONSE TO SIXTH UNNUMBERED REQUEST

Ms. Daube has no documents responsive to this category description.

SEVENTH UNNUMBERED REQUEST

Any and all documents constituting, regarding, referencing or relating to any contracts, understandings, or agreements you have or used to have, with the County of Marin from 1998 to the

1 present, including any exhibits, addendums, modifications, changes, additions, proposals, applications,  
2 screening documents, negotiations, discussions, notices, and any documents you presented to the County  
3 of Marin to conduct work.

4 RESPONSE TO SEVENTH UNNUMBERED REQUEST

5       Objection. The request seeks documents that are not relevant to the claim of any party. Such a  
6 broad request is improper. It is not enough that the documents sought be relevant to the subject matter  
7 of the case, without a court order. The subpoena can only seek documents relevant to a particular claim  
8 of plaintiff. There is no plausible portion of the complaint that would amount to a claim that would  
9 allow for such discovery. In fact, by the very nature of the description, it specifically seeks documents  
10 that are outside the scope of plaintiff's claims, and instead seeks documents that are related to other  
11 people besides Finley.

12       Further objection is made because this subpoena subjects the witness to undue burden. FRCP  
13 45(c)(3)(A)(iv). The burden of this proposed discovery outweighs its likely benefits. Ms. Daube should  
14 not be required to disclose personal financial information, merely because plaintiff is on a fishing  
15 expedition for any scrap of information that may relate to occurrences outside of the experience of the  
16 plaintiff. There can be no legitimate importance to the documents, which by the terms of the inspection  
17 does not relate to Finley, and would outweigh the burden and time consuming attempt to respond to such  
18 a demand. This subpoena is abusively drawn because it imposes an undue burden that is way too broad,  
19 and does not relate to a particular claim of Plaintiff. It is drafted without any attempt made to try to  
20 tailor the information request to the immediate needs of the case.

21       Further objection is made because this description seeks documents for harassment purposes.  
22 There is no legal basis or good faith reason to expect that an attorney for the County of Marin and expert  
23 hired by the County of Marin would provide documents not related to the claims of the plaintiff by the  
24 very terms of the description. Ms. Daube should not have to provide any scrap of paper that may in  
25 some way relate to a contract, which would include payment, financial information, and other  
26 confidential material.

27       Further objection is made pursuant to FRCP 45(c)(3)(A)(iii). The information sought includes  
28 privileged information. Linda Daube is an attorney, and some of the functions she performs for the



County of Marin are attorney services. The documents relating to invoices would reveal what issues Ms. Daube was working on, and those documents are protected by the attorney client privilege and work product doctrine. Additionally, the overly broad description includes multiple amount confidential financial information of Ms. Daube, protected by the right to privacy.

EIGHTH UNNUMBERED REQUEST

Any email, correspondence, or communications with the County of Marin, including but not limited to Laura Armor, James Evans, or any other representative of the human resources department or affirmative action office, from 1998 to the present.

RESPONSE TO EIGHTH UNNUMBERED REQUEST

Objection. The request seeks documents that are not relevant to the claim of any party. Such a broad request is improper. It is not enough that the documents sought be relevant to the subject matter of the case, without a court order. The subpoena can only seek documents relevant to a particular claim of plaintiff. There is no plausible portion of the complaint that would amount to a claim that would allow for such discovery. In fact, by the very nature of the description, it specifically seeks documents that are outside the scope of plaintiff's claims, and instead seeks documents that are related to other people besides Finley.

Further objection is made because this subpoena subjects the witness to undue burden. FRCP 45(c)(3)(A)(iv). The burden of this proposed discovery outweighs its likely benefits. Ms. Daube should not be required to look through every document that may possibly relate to work she did for the County of Marin for cases other than the plaintiff, merely because plaintiff is on a fishing expedition for any scrap of information that may relate to occurrences outside of the knowledge of the plaintiff. The resources of the witness, a sole practicing private attorney, do not allow for response to such an overwhelmingly broad document request. There can be no importance to the documents, which by the terms of the inspection does not relate to Finley, and would outweigh the burden and time consuming attempt to respond to such a demand. This subpoena is abusively drawn because it imposes an undue burden that is way too broad, and does not relate to a particular claim of Plaintiff. It is drafted without any attempt made to try to tailor the information request to the immediate needs of the case.

1 Further objection is made because this description seeks documents for harassment purposes.  
2 There is no legal basis or good faith reason to expect that an attorney for the County of Marin and expert  
3 hired by the County of Marin would provide documents not related to the claims of the plaintiff by the  
4 very terms of the description.

5 Further objection is made pursuant to FRCP 45(c)(3)(A)(iii). The information sought includes  
6 privileged information. Linda Daube is an attorney, and some of the functions she performs for the  
7 County of Marin are attorney services. Those documents are protected by the attorney client privilege  
8 and work product doctrine.

9 Further objection is made because Plaintiff is seeking documents that would reveal an unretained  
10 expert's opinion. Ms. Daube was an attorney hired by the County of Marin to provide her expert  
11 opinion and investigation of a harassment complaint. Ms. Daube was compensated for that service.  
12 Plaintiff now seeks the same information and opinions Ms Daube was hired to provide for the County of  
13 Marin, yet does not intend to pay for the expert opinions. FRCP(c)(3)(B)(ii).

14 NINTH UNNUMBERED REQUEST

15 Any and all documents constituting, regarding, referencing, or relating to any training or  
16 education you provided to the County of Marin from 1998 to the present.

17 RESPONSE TO NINTH UNNUMBERED REQUEST

18 Ms. Daube has no documents responsive to this category description.

19 TENTH UNNUMBERED REQUEST

20 Any and all documents setting forth your education, training, experience, and qualifications,  
21 including any resumes or other related material (including any such material that was provided to the  
22 County of Marin), related to any work you performed for the County of Marin.

23 RESPONSE TO TENTH UNNUMBERED REQUEST

24 Objection. The request seeks documents that are not relevant to the claim of any party. Such a  
25 broad request is improper. It is not enough that the documents sought be relevant to the subject matter  
26 of the case, without a court order. The subpoena can only seek documents relevant to a particular claim  
27 of plaintiff. There is no plausible portion of the complaint that would amount to a claim that would  
28 allow for such discovery.

1 Further objection is made because this subpoena subjects the witness to undue burden. FRCP  
2 45(c)(3)(A)(iv). The burden of this proposed discovery outweighs its likely benefits. Ms. Daube should  
3 not be required to disclose every document related in any way to her training, experience, and  
4 qualifications. That category would include copies of her diplomas, tuition payments, transcripts, and  
5 other items completely unrelated to plaintiff's claims that are in no way related to Ms. Daube's training.  
6 There simply is nothing in Plaintiff's complaint that would justify such a document production without  
7 court order. There can be no importance to the documents, which by the terms of the inspection does  
8 not relate to Finley, and would outweigh the burden and time consuming attempt to respond to such a  
9 demand. This subpoena is abusively drawn because it imposes an undue burden that is way too broad,  
10 and does not relate to a particular claim of Plaintiff. It is drafted without any attempt made to try to  
11 tailor the information request to the immediate needs of the case.  
12

13 May 16, 2008

14 PATRICK K. FAULKNER  
15 COUNTY COUNSEL

16 By:   
17 \_\_\_\_\_

18 Stephen R. Raab  
19 Deputy County Counsel  
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**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is County Counsel of Marin County, Suite 303, Civic Center, San Rafael, CA 94903. On May 16, 2008, I served the within documents:

**NON-PARTY WITNESS LINDA DAUBE'S OBJECTIONS TO INSPECTING AND COPYING ANY OR ALL DOCUMENTS OR MATERIALS**

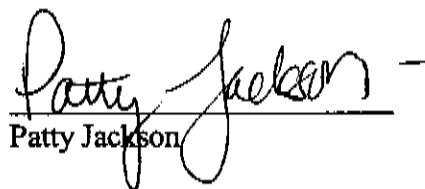
- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ by placing the document(s) listed above in a sealed envelope for collection and mailing on that date following ordinary business practices. I am readily familiar with the County's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U. S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Rafael, California addressed as set forth below.
- ☐ by causing personal delivery by \_\_\_\_\_ of the document(s) listed above to the person(s) at the address(es) set forth below.
- x by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by overnight delivery to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) set forth below.

David M. Poore  
Kahn, Brown & Poore  
755 Baywood Drive, Suite 185  
Petaluma, CA 94954

☐ I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

x I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 16, 2008, at San Rafael, California.

  
Patty Jackson